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South Carolina House of Representatives

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# Legislative Update

David H. Wilkins, Speaker of the House

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## Legislative Update, April 25, 1995

### House Week in Review

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On Tuesday, the House resumed debate on a bill (H. 3915) to revise the composition of the Commission on Higher Education. As offered by the House Education and Public Works Committee, this bill would expand the size of the Commission from 18 to 19 members, require some of the commission members to be persons serving on governing boards of public colleges and universities, and establish a committee to study the governance and operation of South Carolina's higher education institutions. House members tabled several proposed amendments to the bill, including, among others, amendments which would require the Commission to set undergraduate admissions standards and which would require ex-officio commission members from public higher institution governing boards to have been elected by the General Assembly. After an unsuccessful motion to table an amendment which would allow the governor to appoint at his sole discretion some commission members representing congressional districts, several House members placed objections to the bill, sending it well to the back of the contested calendar. The following day, objections to another bill to restructure the Commission, S. 365, also placed that bill on the contested calendar. (As adopted by the House Education and Public Works Committee, S. 365 would be identical to H. 3915).

Also receiving objections this past week was H. 3581, a bill addressing approval of regulations by the General Assembly; and H. 3931, a workers' compensation reform package concerning, among other things, temporary disability payments, when mental injury arising from work-relates stress is compensable, and reporting of workplace injuries to the Commission.

Among the bills given approval by the House last week were H. 3023, establishing a Gift of Life Trust Fund to provide organ and tissue education and assistance; H. 3101, allowing the Family Court to order child support past a child's 18th birthday if he is making progress toward graduating from high school; and H. 3463, which prohibits persons from serving on foster care review boards if determined to have committed abuse or neglect or to have committed various crimes.

The General Assembly convened briefly in joint session Wednesday to recognize winners of South Carolina's Folk Heritage Awards and concluded the legislative week Thursday by ratifying several acts, including, among others, H. 3361, a joint resolution to appropriate surplus funds from FY 1993-1994 surplus general fund revenues; S. 322, a joint resolution ratifying a constitutional amendment approved last year allowing the General Assembly to provide for the age and qualifications of coroners; and S. 662, revising the composition of boards of redevelopment authorities.

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### Bills Introduced

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The following bills were introduced in the House last week. Not all bills introduced are featured here. The bill summaries are arranged according to the standing committee to which the legislation was referred.

### EDUCATION AND PUBLIC WORKS

Compilation of Accident Reports (H. 4112, Rep. Hutson). Current law provides that the Department of Public Safety must tabulate and may analyze accident reports, and must publish at least annually statistical information on the number of and circumstances behind those accidents. This bill would make it mandatory, instead of optional, for the Department to analyze all accident reports and would require the Department to compile accident information for every 100 meter stretch of highway where 2 or more traffic accidents occurred during a year. This information must be used by the Department of Transportation to develop and implement an annual plan of safety improvements along those segments of highway. This plan also must be submitted to the General Assembly and Governor.

School Administrators Must Contact Attorney General When Criminal Conduct Occurs on School Property or at School Events (H. 4128, Rep. Townsend). Current law requires school administrators to contact law enforcement authorities upon occurrence on school property or at school sanctioned or sponsored events of any person's activities which result or could result in injury or serious injury to himself or another person or his property. This bill would require school administrators also to contact the Attorney General upon occurrence of these activities.

### JUDICIARY

Forfeiture of Earned Credits (S. 64, Sen. McConnell). This bill requires a prisoner who violates parole by committing a criminal offense to forfeit work, educational, good time and other credits earned up to that violation and used to reduce his term of imprisonment.



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## **MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

Licensed Dietician and Nutritionist Act (H. 4135, Rep. J. Brown). This is a "skeleton" bill which would enact the Licensed Dietician and Nutritionist Act.

## **WAYS AND MEANS**

Death Benefits for Beneficiaries of Corrections and Law Enforcement Officers Killed in the Line of Duty (H. 4140, Rep. Hodges). This bill provides that the primary beneficiary of a corrections officer of the Department of Corrections or a law enforcement officer of the Department of Public Safety or State Law Enforcement Division killed in the line of duty must receive as a death benefit twice the annual salary of the officer. This death benefit is to be provided through the state group life insurance program, in which employers may choose for a specified premium or fee to provide their employees with 1 year salary as an additional death benefit. To provide these death benefits, the Departments of Corrections and Public Safety, along with SLED, must elect this optional coverage, with the premiums or fees being sufficient to provide the level of this death benefit. For purposes of this benefit, "primary beneficiary" is the person named as such by the corrections or law enforcement officer of his state retirement or police officer's retirement benefits.

Establishment of Committee To Study Adequacy of Compensation of Corrections Officers (H. 4142, Rep. Hodges). This joint resolution establishes a 7-member study committee to study the adequacy of compensation of corrections officers of the Department of Corrections and officers of the Department of Juvenile Justice charged with supervision of persons committed to that department. Committee members must be appointed by the governor, with 1 member from each of the state's 6 congressional districts and 1 member appointed from the State-at-large, with this at-large member serving as chairman. The committee must report its recommendations to the Speaker and to the Senate President Pro Tempore by September 1 of this year, at which time the committee is dissolved. Committee members would receive the usual mileage, subsistence and per diem paid by law to members of state boards, commissions and committees, with payment from funds of the Governor's office.



**WITHOUT REFERENCE**

Person Who Collects and Submits Anonymous Sample of Fluid for HIV Testing Not Required To Report Positive Test Result (H. 4136, Judiciary Committee). This bill provides that a person who collects and anonymously submits a sample of his own body fluid or tissue for HIV infection testing is not required to report a positive test result, with such results being confidential. However, the person or lab performing the test on an anonymous sample must report a positive HIV infection test result to the Department of Health and Environmental Control, as well as certification to that Department that counseling options have been made or offered to the positive subject, although the report may not contain information identifying or which could lead to identification of the subject of the report.

Continuing Authority To Pay State Government Expenses When Fiscal Year Begins Without General Appropriations Act Being In Effect (H. 4138, Ways and Means Committee). Under these provisions, if a state fiscal year begins without an annual general appropriations act being in effect for that new fiscal year, then authority to pay the expenses of state government continues at the level of funds appropriated in the general appropriations act for the preceding fiscal year.

Use of "Zero-Base" Budget Process Required in Preparing Annual State General Appropriations Act (H. 4139, Ways and Means Committee). This bill requires the governor and the General Assembly (including the latter's appropriate committees), beginning with next year's legislative session, to use a "zero-base" budget process in preparing the annual state general appropriations act.

Clemson University Poultry-Livestock Health Division Must Establish Quarantine for Laryngotracheitis (S. 677, Sen. Leventis). This joint resolution requires Clemson University's Livestock-Poultry Health Division to establish a quarantine for laryngotracheitis (an infectious and communicable disease of poultry). Quarantined areas would include counties, as designated by the State Veterinarian, outside South Carolina in which official quarantines have been imposed, with these areas subject to revision by the State Veterinarian and effective upon filing with South Carolina's Legislative Council. Under these provisions, quarantined items include poultry, uncooked poultry by-products, poultry waste, shipping containers and means of transportation by which the disease is spread.

The bill prohibits quarantined items from entering this State except in limited circumstances (such as if the shipping containers are properly cleaned and disinfected in accordance with certain standards). Violations of these provisions is a misdemeanor, punishable as follows:

First Offense: Maximum fine of \$500 or imprisonment not exceeding 30 days;

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Second Offense: Maximum fine of \$5,000 or imprisonment not exceeding 3 years.

This quarantine, and provisions associated with it, remain in effect through June of 1996.

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### Summaries of Bills Introduced on April 11 & 12

Because of the large number of bills introduced on April 11 and 12 to meet the April 14 bill introduction deadline in the House, only a limited number of bills introduced on those two days could be summarized in time for the April 18 Update. Listed below are summaries of several other bills introduced on April 11 and 12 which were not summarized in the April 18 Update.

#### **AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS**

Nonresidents Not Required To Post Bond In Order To Purchase Business License Stamps (H. 4048, Rep. Spearman). This bill deletes a provision which requires nonresidents to post bond with the Department of Revenue and Taxation prior to purchasing tobacco business license stamps.

Referendums To Approve Assessments on Marketed Tobacco (H. 4101, Rep. Witherspoon). This bill requires a referendum to be held in every county where flue-cured tobacco is produced as to whether an assessment of 10 cents for each 100 pounds of tobacco marketed may be used to provide funds to the South Carolina Tobacco Foundation, Inc., with these funds to be used for research and dissemination of research facts pertaining to tobacco production. This referendum would be conducted by that foundation. Participation in this referendum is limited to individual flue-cured tobacco quota holders, as designated by the Agriculture Stabilization and Conservation Service of the U.S. Department of Agriculture, and approval of the referendum is contingent on two-thirds of these producers voting.

If the referendum is approved, then the foundation may collect the assessment from the producers for 4 years. Another referendum must be held in 4 years and every 4 years after approval to confirm approval of the assessment. If the referendum is not approved, then it cannot be offered again for approval for 1 year. Persons or organizations receiving funds from the foundation pursuant to the assessment must file quarterly written reports with the foundation on receipt and expenditure of funds, and producers assessed pursuant to these provisions may receive a refund of their assessment if a request is made in writing to the foundation within 30 days of collection of the assessment.



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EDUCATION AND PUBLIC WORKS

Fees for Special Vehicle Farm Vehicle Licenses for Farm Trucks To Be Based on Vehicle's Gross Weight (H. 3987, Rep. Townsend). Under current law, the fee for a special farm vehicle license for a farm truck is based on the maximum empty weight of the truck. This bill instead would require the fee to be based on the truck's gross vehicle weight, as follows:

<u>Gross Vehicle Weight</u>	<u>Fee</u>
[1] up to 7,000 pounds	\$12
[2] up to 15,000 pounds	\$12
[3] up to 25,000 pounds	\$15
[4] up to 35,000 pounds	\$30
[5] up to 50,000 pounds	\$60
[6] up to 60,000 pounds	\$80
[7] up to 70,000 pounds	\$100
[8] up to 80,000 pounds	\$120

Special License Plates for Forest Product Haulers (H. 4012, Rep. Townsend). This bill requires the Department of Revenue and Taxation to issue special license plates to identify intrastate unmanufactured forest product haulers, with the one-time fee for issuance of this plate being \$30. The bill also exempts knuckleboom loaders mounted on trailers or straight trucks from vehicle licensing and registration requirements; deletes a provision limiting to only daylight hours exemptions from certain length limitations for loads on pole trailers or self-propelled pole carriers, and changes the dimensions of the flag or cloth attached to vehicles with a load extending 4 or more feet beyond the bed or body of a vehicle, such that the flag must be 12 inches by 12 inches (as currently opposed to 12 inches by 24 inches). Finally, the bill deletes a provision which currently exempts from regulation of the Public Service Commission lumber haulers transporting logs from the forest to shipping points in South Carolina (although exemption from PSC regulation would continue for lumber haulers transporting lumber to shipping points in this State.)

Eye Examination Requirements for Purpose of Renewing Driver's License (H. 4052, Rep. Carnell). Current South Carolina law requires eye examinations to be administered to persons before renewal of their driver's licenses, with the Department of Public Safety's minimum vision standards not to require a greater degree of vision than 20/40 corrected in 1 eye. This bill, however, would allow a person whose degree of vision is less than 20/40 but better than 20/200 using spectacles, contact lenses or the carrier option of bioptic spectacles to be eligible for a driver's license, provided the following conditions are met:

- (a) The person can attain a degree of vision of at least 20/40 through using bioptic telescopes;
- (b) these telescopes are prescribed by a licensed optometrist or ophthalmologist;

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(c) the person presents documentation of satisfactory completion of training in (1) use of these telescopes certified by the prescribing doctor and (2) driving while using these telescopes; and

(d) the person passes a driver's test administered by the Department of Public Safety.

No Driver's License or Beginners Permit Issued to Persons Under Age 16 (H. 4061, Rep. Cotty). Current South Carolina law prohibits (with limited exceptions) anyone under age 16 from obtaining a driver's license, although a beginner's or instruction permit and special restricted driver's license may be issued to a 15 year-old meeting certain requirements. This bill would delete provisions allowing for issuance of conditional licenses and permits to persons under age 16 and would require a person without exception to be at least age 16 before obtaining a driver's license or beginner's permit.

South Carolina Academic Scholars (H. 4072, Rep. Jaskwhich). Under current South Carolina law, a student must complete 20 academic units in order to be awarded a state high school diploma. Under this bill, beginning with the 1995-1996 school year, students completing this number of units would be awarded standard state high school diplomas, while students (whether in public or nonpublic schools) completing a certain number of units beyond that level would be awarded diplomas designating them as South Carolina Academic Scholars.

In order to qualify as a South Carolina Academic Scholar, a student must complete a program of at least 2 more credits than the minimum number of credits required for high school graduation in advanced level studies, as prescribed by the State Board of Education. At a minimum, these advanced level studies must include 4 years of progressively advanced instruction each in language arts, science and math; 2 years of sequential foreign language; 1 year of instruction in art and/or music; 3 years of instruction in social studies; and 1 year of instruction in health and physical education. The student also must demonstrate mastery of the performance standards and basic skills required by law, or if a nonpublic school student, must achieve a combined score of 1,100 on the SAT or an equivalent score on the ACT (American College Testing Program). In lieu of completing the units and test or skills requirements as listed above, the student must successfully complete the International Baccalaureate Program sponsored by the International Baccalaureate Office. The bill also provides a means by which a student who does not meet these additional unit requirements because of incomplete or inaccurate information provided by a high school guidance counselor may nonetheless be eligible for this Academic Scholars' diploma.

The bill also provides that each South Carolina Academic Scholar who demonstrates advanced proficiency, as defined by the State Board of Education, through performance on the combined verbal and quantitative portions of an approved standardized test is entitled to automatic admission to any state-supported college, university or technical school within the State, provided his application for admission is filed within 3 years following graduation from high school and he meets the institution's non-



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academic standards. Furthermore, in addition to any other scholarships or financial aid the student may receive, he is entitled to a 5 percent reduction in each tuition payment (not including any room and board) required to enroll in the college, university or school. The bill also urges each district school board, along with the administrators of each nonpublic school, to make provisions (through advanced level course offerings at each school or cooperative arrangements with other schools) for students wishing to participate in this special diploma program.

Education Major at State-Supported Colleges and Universities Must Include Certain Components (H. 4103, Rep. Neal). This bill requires the education curriculum at state-supported colleges and universities offering an "education" major to include components on the National Teacher Examination. Students at these institutions cannot be awarded their degree if "education" is their primary major, unless they first have scored sufficiently high on the National Teacher Examination in specific teaching areas to be certified under South Carolina's laws in those areas.

## JUDICIARY

Unlawful Contact of Jurors Who Have Served in Capital Offense Proceedings (H. 3975, Rep. Harrison). This bill, with limited exceptions, prohibits anyone from contacting or attempting to contact a juror or person who was associated with or in the presence of a juror, if that juror served on a jury impanelled to decide a capital case. This restriction applies whether contact is made personally or through another person/3rd party. Under these provisions, the juror may not be contacted to determine the juror's or jury's discussions; reasons for the jury's verdict or sentence; whether the jurors followed law and instructions of the court; or their matters relied upon or discussed by the jury relevant to the verdict or sentence or relating to a juror's activities or service on the jury. The juror, however, may be contacted if the solicitor who prosecuted the case and the solicitor serving in the county where the case was decided are given written notice identifying the juror to be contacted and reasons for the contact; the circuit court judge presiding over the capital case conducts a hearing and determines that juror contact is necessary, and the juror testifies during the hearing that he freely and voluntarily agrees to be contacted. A person convicted of violating these provisions must be fined not more than \$5,000, or imprisoned not longer than 5 years, or both fined and imprisoned.

Members of House and Senate Placed Under Jurisdiction of State Ethics Commission (H. 3993, Rep. Rogers). This bill abolishes the House and Senate Ethics Committee and places legislators under the jurisdiction of the State Ethics Commission.

Conditions Under Which Federal Law Enforcement Officers May Enforce South Carolina's Criminal Laws (H. 4002, Rep. Lanford). This bill allows



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federal law enforcement officers (such as special agents of the FBI, Bureau of Alcohol, Tobacco and Firearms, Secret Service, etc.) to enforce South Carolina's criminal laws under any of the following 3 circumstances:

(1) the federal law enforcement officer is asked by the head of a state or local law enforcement agency or his designee to provide the agency temporary assistance, and such assistance is within the scope of the state or local law enforcement agency's subject matter and territorial jurisdiction;

(2) the federal law enforcement officer is asked by a state or local law enforcement officer to provide him temporary assistance when the latter is acting within the scope of his subject matter and territorial jurisdiction; or

(3) a felony is committed in the presence of the federal law enforcement officer or under circumstances indicating a crime has been freshly committed.

The bill also provides that when a federal law enforcement officer enforces the State's criminal laws pursuant to these provisions, that officer [1] has the same powers as a South Carolina law enforcement officer; [2] is not an officer, employee or agent of a state or local law enforcement agency; [3] cannot initiate or conduct an independent investigation into violations of State law; and (4) is subject to the Federal Tort Claims Act.

Revocation of Driver's License for DUI or Refusal To Submit to DUI Testing (H. 4014, Rep. Wilkins). This bill deletes current provisions pertaining to suspension of drivers licenses or permits for drivers refusing to consent to chemical tests when arrested for an offense alleged to have been committed while DUI, and in place of those provisions imposes new requirements for such suspensions. Under these provisions, the Department must suspend the driver's license or permit of a person who, while operating a motor vehicle, is arrested for an offense alleged to have been committed while the person was DUI and refuses to submit to chemical testing or has an alcohol concentration of 0.10 percent or above. The suspension period varies as follows:

(1) If person has no previous convictions for DUI or causing great bodily injury or death while DUI, and has no previous suspension imposed for refusal to submit to chemical testing within 10 years preceding a violation of this act---suspension period is [a] 90 days (if person consents to testing, and the test reveals an alcohol concentration of at least 0.10 percent), or [b] 180 days (if the person refuses to submit to chemical testing.)

(2) If person has previously been convicted for DUI or causing great bodily injury or death while DUI, or who has had a previous suspension imposed for refusal to submit to chemical testing within 10 years preceding a violation of this act---suspension period is 1 year if he refuses to submit to the test or takes the test and is revealed to have an alcohol concentration of 0.10 percent or more.

The suspension is effective 30 days after the Department serves the order of suspension on the person. The person also may request the director or his designee of the Department to conduct an administrative review of the

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suspension and also may request the Department to conduct an administrative hearing on the suspension; however, the scope of the hearing is limited as to whether the person was lawfully arrested; was advised of consequences of taking or not taking the test; refused to submit to the test; the test readings did not vary by more than a certain amount; the persons who administered the tests were qualified and the tests were conducted properly.

The bill also revises testing procedures for persons arrested for committing an offense while DUI. Under these provisions, two breath tests (as currently opposed to one) must be offered, and the subsequent test must be administered at least 2 minutes after the first test. The reported test results may be used to prove a person's alcohol concentration if the 2 successfully completed tests produce readings which do not differ by more than .02 percent in alcohol concentration, with the lower reading being at least 0.10 percent. However, only a single blood sample is required if the person cannot produce an acceptable blood sample because of an injured mouth or other valid reason. In a criminal prosecution, only the lower of the breath tests administered is admissible as evidence.

For purposes of the state's driving laws, the bill also defines "alcohol" and "alcohol concentration". "Alcohol" is defined as a substance containing any form of alcohol (such as ethanol, propanol, etc.), while "alcohol concentration" is defined as the number of grams of alcohol for each 100 milliliters of blood; 210 liters of breath; or 67 milliliters of urine.

**Conditions Under Which Territory May Annexed and De-Annexed (H. 4027, Rep. Davenport).** Current law provides that any area or property contiguous to a city or town may be annexed to the city or town upon such a request made by at least 75 percent of the freeholders owning at least 75 percent of the assessed valuation of real property proposed for such annexation. This bill prohibits a municipality from extending its municipal limits under this "75 percent method" unless it publishes a service plan and fiscal impact statement in a newspaper of general circulation of the area to be annexed. This plan must state the services to be provided to residents in the newly-annexed area and when these services will be offered. The fiscal impact statement must state the amount of any fees and/or taxes on property to be annexed.

The bill also provides for de-annexation when these services have not been provided. Under these provisions, a petition for de-annexation may be submitted to the governing body of the county where a majority of the annexing municipality is located, provided this petition is signed by 75 percent of the freeholders owning 75 percent of the assessed value of the property previously annexed. If the county governing body finds that the annexing municipality had not provided residents of the area described in the petition with the services as had been promised in the notice (i.e., notice in the area's newspaper of general circulation), then the area described in the petition must be deannexed upon adoption of an ordinance by the county governing body.



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Definition of Alcohol and Alcohol Concentration Revised for Purposes of Motor Vehicle Laws (H. 4060, Rep. Wilkins). This bill revises several definitions as pertains to South Carolina's motor vehicle laws. The bill expands the definition of "alcohol" to include volatile substances such as toluene and acetaldehyde and changes the definition of "alcohol concentration" so as to delete a provision stating that such concentration may be determined by SLED as for other bodily fluids and to add a provision stating that such concentration means the number of grams of alcohol for each 210 liters of breath or 67 milliliters of urine. The bill also revises conditions under which a person may not operate a motor vehicle, so as to specify that such operation is prohibited when the person [a] has an alcohol concentration of at least 0.10 percent; [b] is under the influence of alcohol; [c] is under the influence of another drug or combination or other drugs or substances which cause impairment; or [d] is under the combined influence of alcohol or another drug or drugs or substances which cause impairment.

Victims Compensation Fund To Compensate Pawnbrokers in Certain Instances (H. 4065, Rep. Knotts). This bill provides that when a law enforcement agency seizes property during a criminal investigation from a pawnbroker who has complied with state law concerning pawnbrokers, then the Victim Compensation Fund (hereafter called "Fund") must compensate the pawnbroker the amount of any outstanding loan principal secured with the seized property. Upon completion of a criminal investigation or court proceeding, the owner of the seized property may retrieve that property after reimbursing the Fund the amount the pawnbroker received from the fund. However, if that property is not retrieved by its owner, then proceeds from sale of the property by the law enforcement agency must be used to reimburse the Fund.

Referendums To Change Method of Electing County Council (H. 4068, Rep. Jaskwich). This bill authorizes a referendum to be held to change the method of electing a county council. The alternate methods of election which may be established by the referenda are: (1) at-large from the county; (2) election from single-member districts; (3) at-large with residency requirements; (4) a combination of (1), (2) or (3); or (5) any other method in effect in the county when the referendum is held.

Court Stenographers Must Be Employed by the State Court Administrator (H. 4107, Rep. Neilson). Current law requires each Circuit Court Judge to appoint a stenographer, while each Family Court Judge is required to employ a court reporter. This bill would instead require Circuit Court stenographers to be employed by the State Court Administrator, with the office of court administration required to establish an annual evaluation system for these court stenographers, including input from judges of the court in which the stenographer is employed and attorneys which appear before that court. The bill also requires court reporters for Family Court judges to be employed by the state court administrator in the same manner that the administrator would employ court stenographers. Those persons serving as court stenographers in Circuit Court and court reporters of the



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Family Court on the effective date of these provisions would continue to serve, at the will and discretion of the State Court Administrator.

Lowering of Blood Alcohol Levels for Purposes of Making Presumptions in DUI Trials (H. 4108, Rep. Neilson). This bill would lower the blood alcohol percentages necessary to make presumptions and inferences in DUI trials, as follows:

	Current <u>Law</u>	As Proposed Under <u>H. 4108</u>
Presumption that person was <u>not</u> under influence of alcohol	.05% or less	.03% or less
No inference as to whether person was or was not under influence of alcohol	Excess of .05% but less than .10%.	Excess of .03% but less than .06%
<u>May</u> be inferred that person was under the influence of alcohol	.10% or more	.06% or more

Additional Penalties for Fraudulent Check Violations (H. 4110, Rep. Jennings). Under these provisions, any person convicted 5 or more times for fraudulent check writing which involve a check in each of at least 3 separate calendar years is considered an habitual check offender. In addition to any other punishment authorized by law for the particular offense involved, a person convicted for an habitual check offense must be punished by an additional fine not exceeding \$5,000 or imprisonment not exceeding 3 years.

Reserve Police Offices May Carry Weapon Under All Circumstances (H. 4118, Rep. Kirsh). Current law allows reserve police officers to carry pistols (whether concealed or nonconcealed) only while serving and functioning as law enforcement officers. This bill deletes that conditional permission, instead allowing a reserve police officer to carry on himself a pistol in all circumstances (whether or not serving as a law enforcement officer).

## LABOR, COMMERCE AND INDUSTRY

Higher Thresholds for Exemption from Public Notice and Hearing Requirements Before Implementing Insurance Rate Increases (H. 3985, Rep. Richardson). Under current law, an increase in premium rates for auto and other insurance cannot be granted if the director of the Department of Insurance or his designee finds a lack of substantial competition in the

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insurance field, unless notice is given in newspapers at least 30 days in advance of a hearing to consider an increase in premium rates. However, these notice and hearing requirements do not apply to applications for rate increases in the following situations:

(1) when the applicant insurer had earned premiums in this State in the previous calendar year of less than \$500,000 for the line or type of insurance for which the rate increase is sought; or

(2) when the earned premiums in South Carolina for all members and subscribers of the rating organization for whom an increase is sought was less than \$500,000 for the previous calendar year for the line or type of insurance for which the rate increase is sought.

This bill would raise these threshold levels to \$2,000,000, such that the notice and meeting requirements would not apply to insurers or rating organizations with less than \$2,000,000 in earned premiums for the respective line or type of insurance for which the rate increase is sought. The bill also would require this \$2,000,000 figure to be adjusted for inflation (i.e., increase in consumer price index) every 3 years.

**Higher Threshold Monetary Levels as Pertains to "Chargeable" Accidents** (H. 4000, Rep. Meacham). Current South Carolina law requires an applicant for or current policyholder of auto insurance to be written at the base rate except under various conditions, one of which is that the person has had 2 or more "chargeable accidents" within the 36 months immediately preceding the effective date of coverage. For purposes of auto insurance coverage, a "chargeable accident" is one resulting in bodily injury in excess of \$300 per person, death, or damage to the property of the insured or other person in excess of \$750. This bill would raise those thresholds, respectively, to \$600 and \$1,000, so that if this bill is adopted, a chargeable accident would be one resulting in bodily injury to any person in excess of \$600 per person, death, or damage to the insured's or other person's property in excess of \$1,000. The bill also requires the Director of the Department of Insurance, by regulation, to adjust these thresholds periodically, based upon changes in the Consumer Price Index. Furthermore, the new threshold amounts would apply only to accidents occurring after June of this year and would also apply to any merit rating plan promulgated by the Director or his designee.

**Safe Driver Discounts and Other Insurance Reforms** (H. 4035, Rep. Richardson). Current South Carolina law requires insurers to grant safe driver discounts of at least 20 percent. This bill would require insurers to grant such discounts upon reviewing a person's 3-year motor vehicle record, with insurers required to grant safe driver discounts of at least 20 percent unless the private passenger auto insurance risk is written by insurers contracted to serve underserved areas or is ceded to the Reinsurance Facility. If the risk is written by insurers contracted to serve such areas or is ceded to the Facility, then a driver with no surcharge of points under the Uniform Merit Rating Plan must receive the following driver discount:

- (a) upon review of a 3-year motor vehicle record, at least 10 percent;
- (b) upon review of a 5-year motor vehicle record, at least 20 percent;



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The bill also makes it optional, except in limited circumstances, for auto insurers to offer collision and comprehensive damage coverage; however, insurers contracted to serve certain areas for risks written by them through producers assigned to the Facility governing board must offer such coverage to an insured or qualified applicant requesting such coverage. Insurers writing single interest collision coverage must provide an applicant for insurance at the time of his application a separate notice indicating purchase of that single interest collision coverage. The bill also prohibits a person's race, color, creed, national origin, ancestry, location of residence, occupation or economic status from being considered when determining premium rates for auto insurance, and the Director of Insurance may impose a fine on the insurer of up to \$200,000 upon finding that the insurer has participated in discriminatory practices.

Also under these provisions, beginning October 1, 1996 and annually thereafter, the Reinsurance Facility must accept cessions of auto physical damage coverages on a policy of private passenger auto insurance at the insurer's option; however, such cessions must be at the facility physical damage rate so that there is no operating loss attributable to the facility's experience with these physical damage coverages. The facility physical damage coverage rate must be calculated so that the projected loss ratio for the risk does not exceed 100 percent, and the facility must file this rate with the director for approval.

The bill also provides that in calculating the recoupment amount each year, the governing board of the Facility must adjust the net facility operating loss to reflect industry average expenses and further revises the formula by which the facility recoupment fee is determined. Finally, these provisions require insurers subject to provisions mandating them to offer collision and comprehensive coverage to submit rate filings to the director of the Department of Insurance within 12 months following the effective date of this act, with the filings reflecting rate decreases, if any, attributable to passage of this act.

Premium Charges for Private Passenger Auto Insurance Risks Ceded to the Reinsurance Facility (H. 4039, Rep. Richardson). This bill, beginning next January and annually thereafter, requires the final rate or premium charge for private passenger auto insurance risks ceded to the Reinsurance Facility to be calculated so that the projected combined ratio for risks subject to the final rate or premium charges is not more than 100 percent. The final rate or premium charge must be filed by the Reinsurance Facility with the director for approval, and calculation of the final rate or premium charge must be based upon the combined ratio of all insurers ceding private passenger auto insurance risks to the facility. This rate adjustment to a projected combined ratio of 100 percent or less must occur evenly over a 2-year period.

The bill also allows insurers of private passenger auto insurance and individual members of rating organizations to elect to file private passenger auto insurance rates or premium charges under an "Index File and



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Use" rating methodology. Under this methodology, at least 60 days before their effective dates, insurers of private passenger auto insurance must file with the Director (or his designee) of the Department of Insurance, and the Consumer Advocate, proposed rates or premium charges. The insurer must certify under oath that the average of the overall change in the proposed rates or premium charges for all classes, territories and coverages is no greater than the average annual change in the U.S. Consumer Price Index Medical Care. Each filing must show what each change would be using the same 12 month Consumer Price Index published by the U.S. Department of Labor. Filings meeting these requirements are considered approved after being on file with the Department of Insurance for 60 days. If, however, the Director (or his designee) of the Department of Insurance finds the proposed rates do not meet the new CPI requirement, then he may hold an expedited hearing (without meeting the requirements of the Administrative Procedures Act), and as a result of the hearing could order return of the filings to insurers for failing to meet these requirements. Furthermore, if the Director (or his designee) finds that the rate considered approved produce excess profits, then he must hold a hearing on the matter, and as result of such hearing may order a reduction in the rates considered approved and order rebates, although the amount of rates subject to rebate cannot exceed the difference between the filed rates as approved and what the rates would have been using Consumer Price Index Medical Care.

Extension of Effective Date of Certain Sections of 1994 Home and Commercial Inspectors Act (H. 4043, Rep. Simrill). In 1994, the General Assembly passed Act 463 (H. 3742), requiring licensure and/or registration of persons engaged in the home inspection business or commercial inspection business. Under that act, the licensing requirements were to be effective 180 days after approval of the governor (the act was signed on June 29, 1994). This bill would extend the effective date of Sections 3 and 4 of that act, which address those licensing/registration requirements, until either July 1, 1995 or until permanent regulations establishing minimum qualifications and fees for licensure can be established, whichever is sooner.

Workers Compensation Laws Apply to Participants in Tech Prep Program (H. 4054, Rep. McElveen). This bill provides that the State's Worker's Compensation Laws apply to include all participants in the Tech Prep Program, whether or not the participants are compensated and while on the premises of a participating employer. The bill also provides that the worker's compensation rate for Tech Prep participants is 50 percent of the average weekly wage in South Carolina for the preceding fiscal year or the same rate that the employer pays to comparable employees.

Board of Directors of South Carolina Public Service Authority To Include Member from Orangeburg County (H. 4079, Rep. Govan). This bill expands from 11 to 12 the size of the Board of Directors of the South Carolina Public Service Authority, so as to include a member from Orangeburg County.

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Changes to Uniform Standards Code for Manufactured Homes Act (H. 4064, Rep. Cato). This bill adds and changes several provisions pertaining to the State's Uniform Standards Code for Manufactured Homes Act, as follows:

---Defines "mobile home" for purposes of that act to mean a transportable structure wholly or substantially made or assembled in a manufacturing facility for installation or assembly on a building site, designed to be used as a residence, and built prior to the effective date of the Federal Manufacturing Housing Construction and Safety Standards Act of 1976, on June 15, 1976.

---Changes the definition of "manufactured home" pursuant to the act to mean a single-family dwelling structure constructed in accordance with the Federal Construction and Safety Standards Act after June 14, 1976, and to include furnishings and appliances contained in the home or affixed to it as a part of the installation of the home.

---States that the act (unless otherwise indicated) applies to manufactured homes and mobile homes.

---Allows the South Carolina Manufactured Housing Board to deny licensure to an applicant who has been convicted of a felony or an offense involving moral turpitude, or who previously had been found by the board to have engaged in an activity constituting grounds for revocation or suspension of a licensee.

Imposition of Fees on Transfer of Real Property (H. 4104, Rep. Felder). This bill allows a county or municipality, but not both, by ordinance to impose a fee on the transfer of real property. The municipality may impose this fee if the property is located within its municipal limits, while the county may impose this fee if the property is located in an unincorporated area. This transfer fee may not exceed 0.25% (one-fourth of one percent) of the purchase price and does not apply to purchases of timber cut from the land. Revenue generated by this transfer fee must be specifically allocated and used for a dedicated purpose, as specified by the ordinance. The bill also deletes current provisions which require county and municipal governing bodies that impose real estate transfer fees to remit such fees to the State Treasurer.

## MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

Continuing Education Requirements for Cosmetologists (H. 4023, Rep. Davenport). Current law requires anyone seeking to renew a cosmetology license to complete a course of continuing education as approved by the State Board of Cosmetology. This bill provides that anyone who has held this license for at least 10 consecutive years may only be required by the board to take continuing education courses in health-related subjects.



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**Children's Emergency Medical Services Act** (H. 4050, Rep. Govan). This bill establishes within DHEC (Department of Health and Environmental Control) an Emergency Services for Children program. This program must implement a number of provisions to improve emergency medical services for children, including, among other things, establishment of an interhospital transfer system for critically ill or injured children; guidelines for referring children to appropriate emergency treatment facilities; and education programs (both initial and continuing) for EMS personnel that include training in emergency care of infants and children. The bill requires the director of DHEC to hire a full-time coordinator for this program in consultation with and by recommendation of a newly-created advisory council (to be discussed shortly). The coordinator must implement the EMSC program following consultation with and at recommendation of the advisory council, and the coordinator may employ staff (professional, clerical, etc.) as necessary within limits of available appropriations.

In order to advise the coordinator of this program on matters concerning emergency medical services for children, the bill creates an Emergency Medical Services for Children Advisory Council. This advisory council must consist of at least 14 public members, all appointed to 3-year terms by the governor with the advice and consent of the Senate. Of the 14 members on this council, 3 must have a nonmedical background, with the remaining 11 all having a background in pediatrics, family practice or other medical-related occupations. The bill provides for organization of the council and prohibits council members from receiving compensation for their service.

**Purposes of Mental Health Facilities** (H. 4066, Rep. P. Harris). Current law requires maintenance of various state facilities for the purpose of providing care and treatment to the mentally ill. This bill expands the uses of such facilities, so as to require maintenance of facilities (as authorized by the Department of Mental Health and with State funding) not only for evaluation and treatment of mentally ill persons but also for evaluation and treatment of chemically-dependent persons and long-term care facilities.

**Adoption Reports** (H. 4083, Rep. Seithel). Current law provides that before a final hearing for adoption of a child, a background information investigation must be conducted, with this investigation including a medical history of the biological family of the adoptee and a medical and developmental history of the adoptee. This bill would require these medical histories to be comprehensive and also would require the contents of these medical histories to comply with newly-required regulations as promulgated by the Department of Social services in conjunction with the Department of Health and Environmental Control. These records also must be updated every 5 years and filed with the Family Court, with the adoptee or his adoptive parents allowed to request from the court copies of these update medical histories.

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### **WAYS AND MEANS**

Issuance of Bonds by Clemson University (H. 4020, Rep. Marchbanks). This bill increases from \$40 million to \$45 million the maximum amount of bonds Clemson University may issue for purposes of student and faculty housing, while also increasing the capitalized interest period for these bonds from 1 year to 2 years.

Former County Council Members Eligible for Coverage Under State Health and Dental Insurance Plans (H. 4037, Rep. Boan). This bill expands eligibility for coverage under the State's Health and Dental Insurance Plans to include former county council members who served in such office for at least 12 years, with participants required to pay the full employer and employee contributions under the plan.

Property Tax Exemption for Owner-Occupied Residential Property Designated as "Historic" (H. 4077, Rep. Limehouse). This bill provides a partial property tax exemption for owner-occupied residential property designated as "historic", with this partial exemption represented by the difference between the fair market value of the designated property and the fair market value of similar property not so designated. If adopted, these provisions would apply for taxable years beginning after 1994.

Teacher Pay Increases (H. 4106, Rep. Neilson). This bill requires certified teachers with at least 17 years' experience to receive the incremental pay increase each year, which must be over and above the total salary they received for the previous year.

State Minimum Salary for Certified Teachers or Administrators Applies to Academic Faculty Employed by State Institutions of Higher Learning (H. 4119, Rep. Moody-Lawrence). This bill provides that the state minimum salary schedule for certified teachers or administrators applies to academic faculty employed by state institutions of higher learning when the faculty member meets the professional or educational requirements.

### **WITHOUT REFERENCE**

Service of Commissioners of Department of Transportation (H. 3978, Rep. Tucker). Current law provides that commissioners of the Department of Transportation serve at their post until their successors are elected. This bill adds 2 words---"and qualify"---to length of such service, so that commissioners serve until their successors are elected and qualify. (This bill received 3rd reading in the House on Thursday, April 20 and has been sent to the Senate.)

Revision of Composition of Tricounty Commission on Alcohol and Drug Abuse (H. 4008, Rep. Govan). This bill makes several changes concerning the



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composition and operation of the Tricounty Commission on Alcohol and Drug Abuse (serving Bamberg, Calhoun and Orangeburg Counties), as follows:

---Reduces the size of the Commission from 27 to 9 members, of whom 2 must be from Bamberg County, 2 from Calhoun county, and 5 from Orangeburg County; deletes the requirement [1] that the chairmanship of the commission be rotated annually and [2] prohibiting any county from having a member as chairman for 2 consecutive years; and allows the commission to meet more than just once a month;

---Deletes a provision requiring approval of the county legislative delegations in order for the Commission to employ a director. Expands the powers of the Commission, so that it can [1] own property and sell, convey, lease or dispose of property it may possess, and [2] borrow money for capital improvements, with the authority to pledge or mortgage the commission's assets as security for loans, although the 3 counties have no obligation with respect to any loans unless specifically assumed by the county.

---Requires copies of the yearly audit of the Commission to also be filed with the county councils of the 3 counties (currently these copies only have to be filed with the legislative delegations and clerks of courts of the 3 counties). Also provides that members of this Commission serving on the effective date of these provisions would continue to serve until expiration of their terms.

(Note: H. 4008 was given third reading in the House on April 21 and has been sent to the Senate.)

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